



POLICE DEPARTMENT CITY OF NEW YORK

September 11, 2107

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Jimmy Bonilla
Tax Registry No. 951552
43 Precinct
Disciplinary Case No. 2015-14654

Charges and Specifications:

1. Police Officer Jimmy Bonilla, on or about January 25, 2015, at approximately 2200 (amended at trial) hours, while on duty and assigned to the 43 Precinct, in the 43 Precinct, Bronx County, was discourteous to Ms. Minnie Towles in that he stated in sum and substance NOW GET THE FUCK OUT OF HERE.

P.G. 203-09 – PAGE 1 PARAGRAPH 2

PUBLIC CONTACT—
GENERAL

2. Police Officer Jimmy Bonilla, on or about January 25, 2015, at approximately 2200 (amended at trial) hours, while on duty and assigned to the 43 Precinct, in the 43 Precinct, Bronx County, was discourteous to Ms. Minnie Towles in that he used discourteous language regarding her race and gender.

P.G. 203-10 – PAGE 1 PARAGRAPH 1

PUBLIC CONTACT—
PROHIBITED

Appearances:

For the Department: Ji Jahng, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Craig Hayes, Esq.
Worth, Longworth & London, LLP
111 John Street – Suite 640
New York, NY 10038

Hearing Date:

July 18, 2017

Decision:
Not Guilty

Trial Commissioner:
ADCT Nancy R. Ryan

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on July 18, 2017.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charges.

Respondent testified on his own behalf. The Department called Ms. Minnie Towles, Sergeant John Farrell, and Mr. Rolando Vasquez as witnesses. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, I find Respondent Not Guilty.

FINDINGS AND ANALYSIS

Respondent was on duty on January 25, 2015, at approximately 2200, and was assigned as the telephone switchboard (TS) operator in the 43 precinct. The issue in this case is whether Respondent was discourteous to a civilian during this tour.

Ms. Minnie Towles testified that she went to the 43 precinct on January 25, 2015, to request a number for a report she had filed the previous day concerning her runaway son. (Tr. 8-9) She went to the front desk and signed in. An officer sitting on the left side of the front desk asked her what she was there for. She told him and then sat down. The officer was sitting in front of a computer and was in uniform, but was not wearing any badge. (Tr. 10-11) She remembers a "sergeant or a lieutenant with a white shirt" was sitting at a higher desk next to the officer. (Tr. 11) While she was in the waiting area Ms. Towles saw "useful" information on the

walls concerning the "CCRB police advocate, 1A" and she wrote down the numbers for further use if she needed it. (Tr. 12)

Ms. Towles testified that after about 20 minutes she went back to the desk and said, "Sir, I'm here for a report number," and the officer replied he was working on it and she should have a seat. She went back to the waiting area and waited another 20 minutes. (Tr. 12) Ms. Towles then went back up to the desk and told the officer that she had to get up in the morning and just wanted the report number. Ms. Towles further testified that the officer, who sounded agitated to her, then told her she was an impatient African American woman. Ms. Towles asked for his badge number. She testified that the officer read out "3883." She asked him to repeat it, which he did, and she wrote it down on her note pad. Ms. Towles testified that she was going to go sit down again when the officer said, "You're not going to get the report number here," to which she replied, "God bless you. You're going to answer to God." (Tr. 13-14) Ms. Towles next testified that the officer also said, "You can get the fuck out of here." (Tr. 15) Ms. Towles left the precinct and filed a complaint five days later. (Tr. 16, 26)

On cross-examination, Ms. Towles admitted she told CCRB that the officer shouted the words, "get the fuck out of here," and acquiesced that the officer shouted not only those words, but also shouted when he told her she was an impatient African-American woman and when he gave her his shield number. (Tr. 19-20) She described the shouting as at about a level eight on a scale of one to ten. (Tr. 31) Ms. Towles testified that the shouting took place at the front desk and that there were other officers around at the time. (Tr. 22) She testified that the officer in the white shirt, which she knew indicated he was a boss, was a few feet away, and in her opinion was close enough to hear what was going on, when the officer was yelling, but he did nothing. (Tr. 22-24) Ms. Towles did not speak to the officer in the white shirt or ask to speak to any

supervisor. (Tr. 25) Despite having been helped by the precinct in the past in getting report numbers, she did not return to the precinct to make any complaint about this incident. (Tr. 27)

On re-direct, Ms. Towles testified that she never went to any other officer about what was happening that night because, "they all work together," and "It's his word against mine....They would help him out. Because I'm an African-American woman, they would pay me no mind." (Tr. 28) She went further to state that the majority of the officers at that precinct, even the African-American officers, have no respect for African-American women. (Tr. 32-33) She further testified that she had never filed any complaint against a police officer prior to this incident. (Tr. 29)

Ms. Towles was not asked to, nor did she spontaneously make, any in-court identification of Respondent as the officer she testified she encountered.

CCRB also called Sergeant John Farrell to testify. He was in uniform and assigned as the sole desk officer in the 43 precinct on the evening in question. The main desk where he would sit is approximately eight feet from the TS operator's desk. If a civilian walked into the precinct the TS operator would generally be the first person to greet them. Respondent was assigned as the TS operator that evening and he would have had access to a computer to locate a report number. (Tr. 40-43, 46) There was no one assigned to stationhouse security or to the 124 room, an administrative room, that evening. Sergeant Farrell testified that if no one is assigned to the 124 room and a civilian comes to the precinct to get report information, it would generally be the TS operator who helps that person. He added that on the night in question, however, there was also an assistant desk officer on duty. This officer has a desk in the room behind where the desk officer is located, but he is allowed to move around the precinct. (Tr. 48-49, 87)

Sergeant Farrell doesn't recall exactly what he was doing at approximately 9:30 to 10:00 pm that night. (Tr. 40-41) After refreshing his recollection with the command log, he testified that he had conducted an inspection of the precinct and returned to the desk at 9:30 pm. (Tr. 51) He further testified that while only three police officers were assigned to the muster room area that evening, without seeing an interrupted patrol log, he can't determine if other officers could have been present. (Tr. 52-53)

On cross-examination, Sergeant Farrell stated he had been assigned as the desk sergeant in the 43 precinct approximately once or twice a week for the last 25 years. (Tr. 54-55) He agreed with the defense counsel that since the desk area is open to the public, it is very important to keep the area running in a professional manner. (Tr. 55) He also agreed that one of his responsibilities as the desk sergeant was to make sure the officers under his command were behaving in a professional and courteous manner to the public. (Tr. 55-56) He testified that if an officer was not being courteous to the public he would definitely address it. He agreed that if an officer yelled at anyone asking for paperwork, or cursed at a civilian, it would be improper conduct. Sergeant Farrell testified that if those behaviors happened in his presence, he would pull the officer off to the side right away and talk to him, while trying to get someone else to deal with the civilian. (Tr. 56-57)

Sergeant Farrell testified that while it is sometimes busy in the desk area, judging by the command log, it would be fair to say it was a quiet time around the desk at approximately 10:00 pm that night. (Tr. 58) He acknowledged that while he was sitting at the desk he would be in a position to hear an officer sitting at the TS desk yelling at a civilian. (Tr. 59) He also testified that if an officer did yell at a civilian it would be an unusual occurrence. It would be the type of thing he would remember and which would require certain protocols, including notifications and

possible documentation, to be followed. (Tr. 60-61) On the night in question, Sergeant Farrell has no recollection of any police officer yelling or cursing at a civilian. Based on his review of the command log and his memory of events, he did not observe anything rising to the level of misconduct in his presence that night. (Tr. 61) He also testified that for the period of time he leaves the desk he has the assistant desk officer cover it. He did not receive any report from the assistant desk officer of any problems occurring that evening. (Tr. 65-66)

CCRB Investigator Rolando Vasquez testified that CCRB determined that Respondent was the officer who interacted with Ms. Towles by first checking the shield number she provided, but found that none of the three officers with the shield number worked in the 43 precinct. They then compared her description of a black male with caramel skin tone, 5'6" to 5'7", about 240 pounds, muscular build, short dark brown hair and a New York accent, against the roll call for the 43 precinct. They determined the description was consistent with Respondent and found that his shield number was very similar to the one provided by Ms. Towles except that the numbers were inverted.¹ (Tr. 69-72) CCRB also reviewed the interrupted patrol log for the 43 precinct and found that only one black male had returned to the precinct during the relevant time. They excluded him since he was an anti-crime officer and assumed he was probably in plain clothes and also because his physical description wasn't consistent with the description provided by Ms. Towles. (Tr. 72-73)

On cross-examination, Mr. Vasquez testified that Ms. Towles became uncooperative during the course of the investigation and refused to look at a photo array. (Tr. 73-74) He acknowledged that CCRB never sought to interview the assistant desk officer even though they were aware he was working that night. (Tr. 74-75) He further admitted that CCRB did not

¹ Although not presented as evidence, Respondent's shield number is 8383.

interview a single witness who corroborated Ms. Towles version of events. (Tr. 78) He agreed with the statement of defense counsel that it was his position that an allegation by a civilian, supported by absolutely nothing, was sufficient to bring charges against a sworn police officer. (Tr. 79)

With regard to his interview with Sergeant Farrell, Mr. Vasquez testified that Sergeant Farrell didn't recognize a photo of Ms. Towles and that a description of the incident did not refresh his recollection of the incident. (Tr. 82-83)

Respondent testified that he was assigned as the TS operator on the evening in question. He further testified that he does not recall seeing Ms. Towles that evening. After observing her in the courtroom, he did not recognize her at all, nor did her voice sound familiar to him. He further testified that while he has worked as the TS operator, he has never either yelled, or cursed at a civilian coming into the precinct looking for help. (Tr. 88-89)

Respondent testified that there is a log kept in the precinct for civilians to sign when they enter the precinct. (Tr. 93) No log was offered as evidence in this case.

I find that the Department has not met its burden of proof in this case. There was no identification of Respondent either in a photo array, or by the complainant when she appeared in the courtroom with Respondent. There was no documentation, such as a log, offered into evidence to support Ms. Towles' testimony that she was even at the precinct that night.

I also find that Sergeant Farrell was a credible witness, based on his demeanor in the courtroom and the way he was forthright in his answers to questions, both on direct and cross examinations. He did not provide any sort of corroboration for Ms. Towles' testimony. He testified he would have been located at a desk within approximately eight feet of Respondent that evening. While he did leave the desk area to inspect the precinct, he had returned by the time of

the alleged incident. He testified that he would be in a position to hear any yelling at the TS desk and it is something he would have addressed and also remembered. He did not remember any such incident that evening.

The Department has argued that Ms. Towles' description which CCRB deemed to match Respondent's, and her report of similar but inverted badge numbers, are coincidences that amount to corroboration. I disagree. Even if one did consider this corroboration, which I don't, it could only be argued to be corroboration that Ms. Towles had seen the Respondent at some point. It certainly in no way corroborates the charges in this case that Respondent, on a specific date and time, made inappropriate comments to Ms. Towles. It should be noted that Ms. Towles comments about the police at the 43 precinct indicate a bias against the majority of the officers there, which certainly could have given her reason to fabricate damaging testimony about an officer assigned there.

Finally, it seems unlikely that Respondent would have chosen the public area of a police station, where his supervisor was sitting only feet away, to yell and curse at a civilian who was merely waiting for a report number.

For the reasons stated above I find the Respondent Not Guilty.

APPROVED

OCT 25 2017
James P. O'Neill
JAMES P. O'NEILL
POLICE COMMISSIONER

Respectfully submitted,

Nancy R. Ryan
Nancy R. Ryan
Assistant Deputy Commissioner Trials